

AMENDED IN ASSEMBLY AUGUST 24, 2006

SENATE BILL

No. 1362

Introduced by Senator Chesbro
(Principal coauthor: Assembly Member Evans)

February 21, 2006

~~An act to amend Section 23356.1 of the Business and Professions Code, relating to alcoholic beverages. An act to amend Section 12012.45 of the Government Code, relating to tribal gaming.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1362, as amended, Chesbro. ~~Alcoholic beverages: winegrower's license. Tribal gaming: compact ratification.~~

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law ratifies a number of tribal-state gaming compacts between the State of California and specified Indian tribes.

This bill would ratify the amendment of a tribal-state gaming compact entered into on August 24, 2006, between the State of California and the Yurok Tribe of the Yurok Reservation. The bill would provide that the terms of each compact apply only to the State of California and the tribe that has signed it, and the terms of these compacts do not bind any tribe that is not a signatory to any of the compacts. The bill would acknowledge the right of federally recognized tribes to exercise their sovereignty to negotiate and enter

into compacts with the state that are materially different from the compacts ratified pursuant to these provisions.

This bill would incorporate additional changes in Section 12012.45 of the Government Code proposed by SB 470, to be operative only if SB 470 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

~~The Alcoholic Beverage Control Act authorizes a person issued a winegrowers license to conduct winetastings either on or off the winegrower's premises. The act provides that when a winetasting is held off the winegrower's premises at an event sponsored by a private nonprofit organization, as defined, no wine may be sold, and no sales or orders solicited, except as provided.~~

~~This bill would expand the definition of a nonprofit organization to include specified tax-exempt organizations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 12012.45 of the Government Code is*
- 2 *amended to read:*
- 3 12012.45. (a) The following tribal-state gaming compacts
- 4 and amendments of tribal-state gaming compacts entered into in
- 5 accordance with the Indian Gaming Regulatory Act of 1988 (18
- 6 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)
- 7 are hereby ratified:
- 8 (1) The amendment of the compact between the State of
- 9 California and the Buena Vista Rancheria of Me-Wuk Indians,
- 10 executed on August 23, 2004.
- 11 (2) The compact between the State of California and the Fort
- 12 Mojave Indian Tribe, executed on August 23, 2004.
- 13 (3) The compact between the State of California and the
- 14 Coyote Valley Band of Pomo Indians, executed on August 23,
- 15 2004.
- 16 (4) The amendment to the compact between the State of
- 17 California and the Ewiiapaayp Band of Kumeyaay Indians,
- 18 executed on August 23, 2004.
- 19 ~~(b)~~
- 20 (5) *The compact between the State of California and the Yurok*
- 21 *Tribe of the Yurok Reservation, executed on August 24, 2006.*

1 ***(b) The terms of each compact apply only to the State of***
2 ***California and the tribe that has signed it, and the terms of these***
3 ***compacts do not bind any tribe that is not a signatory to any of***
4 ***the compacts. The Legislature acknowledges the right of***
5 ***federally recognized tribes to exercise their sovereignty to***
6 ***negotiate and enter into compacts with the state that are***
7 ***materially different from the compacts ratified pursuant to***
8 ***subdivision (a).***

9 ***(c) (1) In deference to tribal sovereignty, none of the***
10 ***following shall be deemed a project for purposes of the***
11 ***California Environmental Quality Act (Division 13 (commencing***
12 ***with Section 21000) of the Public Resources Code):***

13 ***(A) The execution of an amendment of a tribal-state gaming***
14 ***compact ratified by this section.***

15 ***(B) The execution of a tribal-state gaming compact ratified by***
16 ***this section.***

17 ***(C) The execution of an intergovernmental agreement between***
18 ***a tribe and a county or city government negotiated pursuant to***
19 ***the express authority of, or as expressly referenced in, a***
20 ***tribal-state gaming compact or an amended tribal-state gaming***
21 ***compact ratified by this section.***

22 ***(D) The execution of an intergovernmental agreement between***
23 ***a tribe and the California Department of Transportation***
24 ***negotiated pursuant to the express authority of, or as expressly***
25 ***referenced in, a tribal-state gaming compact or an amended***
26 ***tribal-state gaming compact ratified by this section.***

27 ***(E) The on-reservation impacts of compliance with the terms***
28 ***of a tribal-state gaming compact or an amended tribal-state***
29 ***gaming compact ratified by this section.***

30 ***(F) The sale of compact assets, as defined in subdivision (a) of***
31 ***Section 63048.6, or the creation of the special purpose trust***
32 ***established pursuant to Section 63048.65.***

33 ***(2) Except as expressly provided herein, nothing in this***
34 ***subdivision shall be construed to exempt a city, county, a city***
35 ***and county, or the California Department of Transportation from***
36 ***the requirements of the California Environmental Quality Act.***

37 ***(e)***

38 ***(d) Revenue contributions made to the state by tribes pursuant***
39 ***to the tribal-state gaming compacts and amendments of***

1 tribal-state gaming compacts ratified by this section shall be
2 deposited in the General Fund.

3 *SEC. 1.5. Section 12012.45 of the Government Code is*
4 *amended to read:*

5 12012.45. (a) The following tribal-state gaming compacts
6 and amendments of tribal-state gaming compacts entered into in
7 accordance with the Indian Gaming Regulatory Act of 1988 (18
8 U.S.C. Sec. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)
9 are hereby ratified:

10 (1) The amendment of the compact between the State of
11 California and the Buena Vista Rancheria of Me-Wuk Indians,
12 executed on August 23, 2004.

13 (2) The compact between the State of California and the Fort
14 Mojave Indian Tribe, executed on August 23, 2004.

15 (3) The compact between the State of California and the
16 Coyote Valley Band of Pomo Indians, executed on August 23,
17 2004.

18 (4) The amendment to the compact between the State of
19 California and the Ewiiapaayp Band of Kumeyaay Indians,
20 executed on August 23, 2004.

21 ~~(b)~~

22 (5) *The amendment to the compact between the State of*
23 *California and the Quechan Tribe of the Fort Yuma Indian*
24 *Reservation, executed on June 26, 2006.*

25 (6) *The compact between the State of California and the Yurok*
26 *Tribe of the Yurok Reservation, executed on August 24, 2006.*

27 (b) *The terms of each compact apply only to the State of*
28 *California and the tribe that has signed it, and the terms of these*
29 *compacts do not bind any tribe that is not a signatory to any of*
30 *the compacts. The Legislature acknowledges the right of*
31 *federally recognized tribes to exercise their sovereignty to*
32 *negotiate and enter into compacts with the state that are*
33 *materially different from the compacts ratified pursuant to*
34 *subdivision (a).*

35 (c) (1) In deference to tribal sovereignty, none of the
36 following shall be deemed a project for purposes of the
37 California Environmental Quality Act (Division 13 (commencing
38 with Section 21000) of the Public Resources Code):

39 (A) The execution of an amendment of a tribal-state gaming
40 compact ratified by this section.

1 (B) The execution of a tribal-state gaming compact ratified by
2 this section.

3 (C) The execution of an intergovernmental agreement between
4 a tribe and a county or city government negotiated pursuant to
5 the express authority of, or as expressly referenced in, a
6 tribal-state gaming compact or an amended tribal-state gaming
7 compact ratified by this section.

8 (D) The execution of an intergovernmental agreement between
9 a tribe and the California Department of Transportation
10 negotiated pursuant to the express authority of, or as expressly
11 referenced in, a tribal-state gaming compact or an amended
12 tribal-state gaming compact ratified by this section.

13 (E) The on-reservation impacts of compliance with the terms
14 of a tribal-state gaming compact or an amended tribal-state
15 gaming compact ratified by this section.

16 (F) The sale of compact assets, as defined in subdivision (a) of
17 Section 63048.6, or the creation of the special purpose trust
18 established pursuant to Section 63048.65.

19 (2) Except as expressly provided herein, nothing in this
20 subdivision shall be construed to exempt a city, county, a city
21 and county, or the California Department of Transportation from
22 the requirements of the California Environmental Quality Act.

23 (e)
24 (d) Revenue contributions made to the state by tribes pursuant
25 to the tribal-state gaming compacts and amendments of
26 tribal-state gaming compacts ratified by this section shall be
27 deposited in the General Fund.

28 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
29 *Section 12012.45 of the Government Code proposed by both this*
30 *bill and SB 470. It shall only become operative if (1) both bills*
31 *are enacted and become effective on or before January 1, 2007,*
32 *(2) each bill amends Section 12012.45 of the Government Code,*
33 *and (3) this bill is enacted after SB 470, in which case Section 1*
34 *of this bill shall not become operative.*

35 ~~SECTION 1. Section 23356.1 of the Business and~~
36 ~~Professions Code is amended to read:~~

37 ~~23356.1. (a) A winegrower's license also authorizes the~~
38 ~~person to whom issued to conduct winetastings of wine produced~~
39 ~~or bottled by, or produced and packaged for, the licensee, either~~
40 ~~on or off the winegrower's premises. When a winetasting is held~~

1 off the winegrower's premises at an event sponsored by a private
2 nonprofit organization, no wine may be sold, and no sales or
3 orders solicited, except that orders for the sale of wine may be
4 accepted by the winegrower if the sales transaction is completed
5 at the winegrower's premises. For purposes of this subdivision,
6 "private nonprofit organization" means an organization described
7 in Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g,
8 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and
9 Taxation Code.

10 (b) Notwithstanding any other provisions of this division, a
11 winegrower who, prior to July 1, 1970, had, at his or her
12 premises of production, sold to consumers for consumption off
13 the premises domestic wine other than wine which was produced
14 or bottled by, or produced and packaged for, the licensee, and
15 which was not sold under a brand or trade name owned by the
16 licensee, and who had, prior to July 1, 1970, conducted
17 winetastings of the domestic wine at his or her licensed premises,
18 is authorized to continue to conduct the winetasting and selling
19 activities at the licensed premises.

20 (c) A winegrower who was licensed as such prior to July 1,
21 1954, and who prior to July 1, 1970, had, at his or her licensed
22 premises, sold to consumers for consumption off the premises,
23 wine packaged for and imported by him or her, and who
24 conducted winetastings of the wines at his or her licensed
25 premises, may continue to conduct the winetasting and selling
26 activities at the licensed premises.

27 (d) The department may adopt the rules as it determines to be
28 necessary for the administration of this section.